THIS REPORT IS NOT A FINAL ORDER OF DISCIPLINE*

DISTRICT OF COLUMBIA COURT OF APPEALS
BOARD ON PROFESSIONAL RESPONSIBILITY

Issued
May 2, 2025

In the Matter of:	:	
	:	
VI BUI,	:	
	:	D.C. App. No. 25-BG-0429
Respondent.	:	Board Docket No. 25-BD-010
	:	Disciplinary Docket No. 2024-D197
A Temporarily Suspended	:	
Member of the Bar of the	:	
District of Columbia Court of Appeals	:	
(Bar Registration No. 997469)	:	

REPORT AND RECOMMENDATION OF
THE BOARD ON PROFESSIONAL RESPONSIBILITY

Respondent Vi Bui is a member of the D.C. Bar, having been admitted on November 5, 2010, and assigned Bar Number 997469. On October 16, 2024, Respondent pled guilty in the United States District Court for the Northern District of Georgia to a one-count information for violating 26 U.S.C. § 7212(a), which provides:

> Whoever corruptly or by force or threats of force (including any threatening letter or communication) endeavors to intimidate or impede any officer or employee of the United States acting in an official capacity under this title, or in any other way corruptly or by force or threats of force (including any threatening letter or communication) obstructs or impedes, or endeavors to obstruct or impede, the due administration of this title, shall, upon conviction thereof, be fined not more than $5,000, or imprisoned not more than 3 years, or both, except that if the offense is committed only by threats of force, the person convicted thereof shall be fined not more than $3,000, or imprisoned not more than 1 year, or both. The term "threats of force", as used in this subsection, means threats of bodily harm to the officer or employee of the United States or to a member of his family.

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* Consult the 'Disciplinary Decisions' tab on the Board on Professional Responsibility's website (www.dcattorneydiscipline.org) to view any subsequent decisions in this case.

Respondent's crime involved the generation of fraudulent tax deductions for "conservation easements." Entities that Respondent created would acquire an interest in real property. The entity would then convey the conservation easement to a tax-deductible entity. The easements would restrict the ways in which the property could be used. Respondent committed, aided and abetted significant fraud at each stage: use of business entities without economic substance, fraudulent appraisals, false inducements to investors, and efforts to impede the Internal Revenue Service ("IRS") investigation.

Based on the guilty plea, on March 3, 2025, the Court of Appeals suspended Respondent from the practice of law and directed the Board to institute a formal proceeding to determine the nature of Respondent's offense and whether the crimes involve moral turpitude within the meaning of D.C. Code § 11-2503(a), which mandates the disbarment of a District of Columbia Bar member who has been convicted of a crime of moral turpitude. Order, *In re Bui*, D.C. App. No. 25-BG-0162 (Mar. 3, 2025).

On March 26, 2025, Disciplinary Counsel filed a statement ("ODC Statement") with the Board recommending Respondent's disbarment based on his conviction of a crime involving moral turpitude per se. Respondent has not filed a response, the time for doing so having expired.

I. The Moral Turpitude Per Se Inquiry

D.C. Code § 11-2503(a) requires the disbarment of a D.C. Bar member who has been convicted of a crime of moral turpitude. Once the Court determines that a particular crime involves moral turpitude per se, disbarment is the mandated sanction, without inquiry into the specific criminal conduct in each case. *See In re Colson*, 412 A.2d 1160, 1164-65 (D.C. 1979) (en banc).

Here, the Court has not previously addressed the statute at issue. Thus, the Board must review the elements of the offense of conviction to determine whether it is a crime of moral turpitude per se. This assessment is based solely on an examination of the statute, not on Respondent's conduct. *See In re Shorter*, 570 A.2d 760, 765 (D.C. 1990) (per curiam) (citing *Colson*, 412 A.2d at 1164-67). That is, the Board focuses "on the type of crime committed rather than on the factual context surrounding the actual commission of the offense." *Colson*, 412 A.2d at 1164. To constitute a crime of moral turpitude per se, "the statute, in all applications, [must] criminalize[] conduct that 'offends the generally accepted moral code of mankind,' 'involves baseness, vileness or depravity,' or offends universal notions of 'justice, honesty, or morality.'" *In re Rohde*, 191 A.3d 1124, 1131 (D.C. 2018) (quoting *In re Tidwell*, 831 A.2d 953, 957 (D.C. 2003)). The Board must consider whether the least culpable offender convicted under the statute necessarily engages in a crime of moral turpitude. *See In re Johnson*, 48 A.3d 170, 172-73 (D.C. 2012) (per curiam) ("[P]art of the calculus in assessing whether a crime is one of moral turpitude *per se* is whether we can say that the least culpable offender under the

terms of the statute necessarily engages in conduct involving moral turpitude." (internal quotations omitted) (quoting *In re Squillacote*, 790 A.2d 514, 517 (D.C. 2002) (per curiam)); *Squillacote*, 790 A.2d at 517 ("if the most benign conduct punishable under the statute" does not involve moral turpitude, then the crime is not one of moral turpitude per se); *see also Shorter*, 570 A.2d at 765.

II. The Moral Turpitude Per Se Analysis

Relying on *United States v. Mitchell*, Disciplinary Counsel argues that 26 U.S.C. § 7212(a) involves moral turpitude per se because "the offender must engage in some type of fraudulent scheme to violate the statute. *See U.S. v. Mitchell*, 985 F.2d 1275, 1278-79 (4th Cir. 1993) ('the offense of corruptly obstructing or impeding administration of internal revenue laws . . . includes fraud and misrepresentation')." ODC Statement at 5. However, the cited portion of *Mitchell* does not reflect a least culpable offender analysis. Instead, *Mitchell* addressed the defendant's argument that the phrase "corruptly endeavor" in § 7212(a) "refers to only specific means of obstructing the tax laws such as solicitation or subornation." 985 F.2d at 1277. *Mitchell* rejected that argument, and held that fraud and misrepresentation violate § 7212(a), along with solicitation and subornation. *Id.* at 1279. *Mitchell* defined "corruptly" as "an act done with an intent to give some advantage inconsistent with the official duty and rights of others." *Id.* at 1278 (quoting *United States v. Reeves,* 752 F.2d 995, 998 (5th Cir. 1985)). *Mitchell* recognized that "[m]isrepresentation and fraud, in fact, are paradigm examples of

activities done with an intent to gain an improper benefit or advantage," but it did not hold that fraud is an essential element of a § 7212(a) violation. 985 F.2d at 1278.

United States v. Workinger, 90 F.3d 1409 (9th Cir. 1996), another case cited by Disciplinary Counsel, relied on *Reeves* in concluding "that the offenses under § 7212(a) do not necessarily include fraud as an 'essential ingredient.'" *Id.* at 1414. *Workinger* recognized that "it would be an unusual case where a person would corruptly obstruct or impede the administration of the tax laws, without having that activity include some element of fraud," but emphasized that "corruption and fraud are not the same," and fraud is not necessarily included in every instance of corruption. *Id.* Thus, the cases cited by Disciplinary Counsel do not support its argument that § 7212(a) is a crime of moral turpitude per se because it necessarily involves fraud.

In addition, we consider the Court's holding in *Shorter* that 26 U.S.C. § 7201 (prohibiting willful tax evasion) is not a crime of moral turpitude per se because willful tax evasion does not "offend[] basic moral precepts common to humanity." 570 A.2d at 766. As a violation of § 7201 has a greater maximum sentence than a violation of § 7212(a) (five years vs. three years), we conclude that Congress determined that tax evasion is more serious than obstruction. *See United States v. Sorensen*, 801 F.3d 1217, 1226 (10th Cir. 2015) (recognizing tax evasion as more serious that corruptly obstructing or impeding the due administration of the tax laws). As *Shorter* determined that the more serious crime is not a crime of moral

turpitude per se, we conclude that a conviction under 26 U.S.C. § 7212(a) is not a crime of moral turpitude per se.

III. Summary Adjudication of Moral Turpitude Issues Following Guilty Plea

Our conclusion that 26 U.S.C. § 7212(a) is not a crime of moral turpitude per se does not end our inquiry. As the Court said in *Shorter*, "[i]f . . . we do not locate moral turpitude within the elements of the crime, we must still inquire whether respondent's conduct, on the particular facts of the case, involved moral turpitude." *Shorter*, 570 A.2d at 765 (citing *Colson*, 412 A.2d at 1165). To determine whether Respondent's offense involved moral turpitude "on the facts," we "refocus our lens and engage in 'a broader examination of circumstances surrounding the commission of the crime in question which fairly bear on the question of moral turpitude in its actual commission, such as motive or mental condition.'" *Rohde*, 191 A.3d at 1131-32 (quoting *In re Spiridon*, 755 A.2d 463, 466 (D.C. 2000) (rejecting a purely elements-based analysis to determine if an attorney's crime reflects moral turpitude on the facts)). The objective of this inquiry is "to discern whether the attorney has been convicted of 'an *offense* involving moral turpitude'" because "an attorney is subject to disbarment under the statute for his conviction of a *crime* involving moral turpitude, not for [his] commission of an *act* involving moral turpitude." *Rohde*, 191 A.3d at 1131-32 (citing *Colson*, 412 A.2d at 1164).

Disciplinary Counsel has moved for summary adjudication pursuant to Board Rule 10.2, which provides that

> If respondent's conviction follows a guilty plea, along with its brief on the issue of moral turpitude per se, Disciplinary Counsel may file with the Board a motion seeking summary adjudication that the conduct underlying respondent's offense involves moral turpitude within the meaning of D.C. Code Section 11-2503(a). The Board will not consider Disciplinary Counsel's motion if it concludes that the offense involves moral turpitude per se. Disciplinary Counsel's motion must be supported by a statement of material facts that it contends are not genuinely disputed. If respondent opposes summary adjudication, respondent must file an opposition to Disciplinary Counsel's motion that identifies the material facts that respondent contends are genuinely disputed, along with a proffer of any additional facts respondent intends to present in a contested hearing; however, respondent may not contest any of the material facts alleged by the government in any plea agreement in the underlying criminal case.
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> If, after viewing the record in the light most favorable to respondent, the Board determines that there is no genuine issue as to any material fact, and Disciplinary Counsel has proven by clear and convincing evidence that the conduct underlying respondent's offense involves moral turpitude, the Board shall grant Disciplinary Counsel's motion and recommend to the Court that respondent be disbarred pursuant to D.C. Code Section 11- 2503(a). If the Board determines that the question of moral turpitude cannot be decided based on summary adjudication, the Board shall refer the matter to a Hearing Committee pursuant to Board Rule 10.3.

IV. The Facts Admitted in Respondent's Guilty Plea Establish by Clear and Convincing Evidence that His Offense Involved Moral Turpitude on the Facts

We have reviewed the Factual Basis of Respondent's guilty plea. Attachment E to ODC Statement ("Attachment E"). Respondent agreed that the facts in the Factual Basis were "true and correct and, had [the] case gone to trial, the Government would have proven them by admissible evidence and beyond a reasonable doubt." *Id.* Respondent may not challenge those facts in this

proceeding because a guilty plea acts as "an admission of all material facts" and as "conclusive proof that the attorney did the underlying acts which constitute the crime." *Colson*, 412 A.2d at 1164, 1167 (collecting cases); *see also In re Wolff*, 490 A.2d 1118, 1119 (D.C. 1985) (citing *Boykin v. Alabama*, 395 U.S. 238, 242 (1969)); *Tidwell*, 831 A.2d at 960. Respondent has not responded to Disciplinary Counsel's filings on the moral turpitude issue, disputed any of its factual assertions, or otherwise opposed its argument that he should be disbarred.

We have reviewed the record in the light most favorable to Respondent, and have determined that there are no material issues in dispute. The facts admitted by Respondent show that, he helped organize, promote, and sell units in dozens of illegal tax shelters, including an illegal Syndicated Conservation Easement ("SCE") tax shelter that involved the transfer of land ownership between Southern Application Investment Fund 2014 ("SAIF") and Thompson Mountain Holdings ("TMH"). Attachment B to ODC Statement ("Attachment B") at 2-5; Attachment E at 9-11. Respondent arranged fraudulent appraisals to superficially increase the value of the land or conservation easement over the land far above fair market value. Attachment B at 4-5; Attachment E at 10-11. In anticipation of an IRS audit, Respondent falsified a sales agreement and other documents to make it appear that SAIF and TMH executed a written sales agreement in December 2014. Attachment B at 6-8. When the IRS began investigating the scheme, Respondent falsified other documents, with the understanding that the falsified documents would be used in an audit. *Id.*; Attachment E at 11-12. Respondent then mailed falsified documents to

a taxpayer and an accounting firm, who submitted them to the IRS. Attachment B at 8-9; Attachment E at 13. Respondent's knowing fraudulent actions resulted in $360,270,000 in false deductions claimed. *See, e.g.*, Attachment E at 19.

The Court has previously found that efforts to defraud the IRS or other federal agencies involved moral turpitude. *See, e.g.*, *In re Sneed*, 673 A.2d 591 (D.C. 1996) (finding moral turpitude and disbarring attorney who engaged in scheme to defraud the Department of Labor of overtime by enlisting a friend to pose as a non-existent contractor billing the agency); *In re Untalan*, 619 A.2d 978 (D.C. 1993) (per curiam) (appended Board Report) (finding moral turpitude and disbarring attorney for fraudulent conduct while negotiating the sale of a country club); *In re Meisnere*, 471 A.2d 269 (D.C. 1984) (appended Board Report) (finding moral turpitude and disbarring attorney for perjury and conspiracy to defraud the IRS).

It appears from the docket report attached to Disciplinary Counsel's Statement that Respondent's sentencing is scheduled for May 9, 2025. The fact that Respondent has not been sentenced should not delay the Board's recommendation here; but, the Court should defer final action until after sentencing because a defendant "is not convicted until the sentence is imposed." *In re Gardner*, 625 A.2d 293, 297 (D.C. 1993) (per curiam) (appended Board Report). Disciplinary Counsel should file a certified copy of the final judgment of conviction with the Court following Respondent's sentencing so that the Court may take final action in this matter. *See, e.g.*, *In re Allison*, Bar Docket No. 388-08, at 3 n.1 (BPR June 30, 2009), *recommendation adopted where no exceptions filed*, 990 A.2d 467 (D.C. 2010) (per

curiam) (respondent disbarred following receipt of final judgment of conviction); *see also In re Hirschfeld*, 622 A.2d 688, 689 n.1 (D.C. 1993).

V. Conclusion

For the reasons set forth above, we conclude a respondent who has been convicted under 26 U.S.C. § 7212(a), has not been convicted of a crime of moral turpitude per se. However, after considering the facts Respondent admitted in his guilty plea in the light most favorable to him, we conclude that Respondent's admitted criminal conduct involves moral turpitude.

We recommend that, upon receipt of a certified copy of the final judgment of conviction, the Court disbar Respondent pursuant to D.C. Code § 11-2503(a) based on his conviction of a crime involving moral turpitude.

BOARD ON PROFESSIONAL RESPONSIBILITY

By: Michael E. Tigar
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Michael E. Tigar

All members of the Board concur in this Report and Recommendation, except Ms. Spiegel, who did not participate.